

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

JUAN M. GONZALEZ,
Plaintiff,

vs.

STATE FARM LLOYDS,
Defendant.

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§
§

CASE NO.

EXHIBIT 1

Plaintiff's Pre-Suit Demand and Estimate



Law Offices of R. Kent Livesay, P.C.

2510 S. Veterans Blvd.

Edinburg, Texas 78539

Phone: 956.992-8721 * Facsimile: 956.686.0050

March 29, 2016

State Farm
PO BOX 106169
Atlanta, GA 30348-619

Via CMRR: 7015.3010.0000.3107.9685.

Attn: Gilbert Santos

Our Clients : Juan M Gonzalez
Policy No. : 83BYA7981
Claim No. : 53609M126
Property : 1904 Taxco Dr. Brownsville, TX 78521
D. O. L. : May 28, 2014

**DEMAND FOR RELIEF UNDER THE TEXAS DECEPTIVE TRADE PRACTICES-
CONSUMER PROTECTION ACT AND THE TEXAS INSURANCE CODE.**

Dear Gilbert Santos:

This firm has been retained by **Juan M Gonzalez** to represent him in the handling and prosecution of his claims against **State Farm** under the Texas Deceptive Trade Practices-Consumer Protection Act (DTPA) and under the Texas Insurance Code, section 541.

State Farm is a "consumer(s)" within the definition as set forth in the DTPA because he purchased a policy of insurance from **State Farm**. It was represented to our client that this policy of insurance was in full force and effect for the policy period, and that any and all claims made by the insured would be handled in a manner consistent with the guidelines set forth in the Texas Insurance Code. In addition, my client is also a "person(s)" under the Texas Insurance Code with standing to bring claims under the Texas Insurance Code.

As you know, the insured has made a claim under the policy of insurance sold to them by **State Farm**. Your company has conducted an inadequate examination of the damage from the **May 28, 2014** hailstorm and the claims made by your insured. To date, the handling of the claims for windstorm/hailstorm and water damage, have resulted in significant problems for my client.

DTPA

The DTPA violations of **State Farm** include but not limited to:

1. Causing confusion or misunderstanding as to the course, sponsorship, approval, or certification of goods or services;



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2. Representing that an agreement confers or involves rights, remedies, or obligations, which it does not have or involve, or which are prohibited by law;
3. Failure to disclose information concerning goods or services which was known at the time of transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;
4. Misrepresenting to a claimant a material fact or policy provision relating to coverage at issue;
5. Failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurers' liability has become reasonably clear;
6. Failing to attempt, in good faith, to effectuate a prompt, fair, and equitable settlement under one portion of a policy of a claim with respect to which the insurers' liability has become reasonably clear in order to influence the claimant to settle an additional claim under another portion of the coverage, provided that this prohibition does not apply if payment under one portion of the coverage constitutes evidence of liability under another portion of the policy;
7. Failing to provide promptly to a policyholder a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's denial of a claim or for the offer of a compromise settlement of a claim;
8. Failing with a reasonable time to affirm or deny coverage of a claim to a policyholder and/or submit a reservation of rights to a policyholder;
9. Refusing, failing, or unreasonably delaying an offer of settlement under applicable first party coverage on the basis that other coverage may be available or that third parties are responsible for the damages suffered; except as may be specifically provided in the policy;
10. Undertaking to enforce a full and final release of a claim from a policyholder when only a partial payment has been made, provided that this prohibition does not apply to a compromise settlement of a doubtful or disputed claim;
11. Refusing to pay a claim without conducting a reasonable investigation with respect to the claim;
12. Making an untrue statement of material fact;
13. Failing to state a material fact that is necessary to make other statements made not misleading, considering the circumstances under which the statements were made;
14. Making a statement in such manner as to mislead a reasonably prudent person to a false conclusion of a material fact
15. Making a material misstatement of law; and
16. Failing to disclose any matter required by law to be disclosed, including a failure to make disclosure in accordance with another provision of the Texas Insurance Code.

State Farm actions are in violation of the DTPA and constitute producing causes of damage to my client.

Because of the nature of the claims and the circumstances surrounding the losses in question, **State Farm** decision to deny the claims or to delay payment on the claims even though it is reasonably clear the claims are covered constitutes "knowing" violations of the DTPA and the Texas Insurance Code sufficient to allow the imposition of



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treble damages. Moreover, **State Farm**' "knowing" violations of the Texas Insurance Code and the DTPA have caused and continue to cause significant mental anguish to my client.

Furthermore, because of your **State Farm** violations of the DTPA and the Texas Insurance Code, our client is entitled to recover attorney's fees.

Texas Insurance Code Violations

State Farm and its representatives have violated the Texas Insurance Code in the following manner including, but are not limited to:

1. Refusing to pay a claim without conducting a reasonable investigation with respect to the claim;
2. Making an untrue statement of material fact;
3. Failing to state a material fact that is necessary to make other statements made not misleading, considering the circumstances under which the statements were made;
4. Making a statement in such manner as to mislead a reasonably prudent person to a false conclusion of a material fact;
5. Making a material misstatement of law, or
6. Failing to disclose any matter required by law to be disclosed, including a failure to make disclosure in accordance with another provision of the Texas Insurance Code.

***Breach of Duty of Good Faith and Fair Dealing: Bad Faith ***

In addition, **State Farm** violated the duty of good faith and fair dealing by refusing to pay the claims in question even though you and your company knew or should have known that it was reasonably clear the claims were covered. **State Farm**'s breach of its duty of good faith and fair dealing has proximately caused injury and damage to my client.

***Breach of Contract ***

Moreover, by failing to pay benefits under the policy of insurance, **State Farm** breached the contract of insurance that existed between your company and our client. As a result, our client is entitled to recover actual damages, consequential damages and attorney's fees pursuant to §38.001 of the Texas Civil Practice & Remedies Code because of your breach of contract.

At this time, my client has to face the reality of not being able to live in her home while repair of the premises takes place in order to reduce or eliminate the very real dangers presented by the damages to the property. The potential costs of fixing the problems with the house are staggering, and that is why our client turned to you, their insurance representative and company, for assistance in this time of dire need. However, instead of help or adequate assistance, my client has suffered significant and real harm because of your misguided decisions.

04042016



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As a result, please allow this correspondence to constitute notice under the Texas Deceptive Trade Practices Act and under the Texas Insurance Code of the claim, against you and your representatives. Please allow this correspondence to serve as notice pursuant to Chapter 38.001 of the Texas Civil Practice & Remedies Code.

The damages suffered by our client to date include:

Total All Economic Damages	:	\$ 26,902.37 (<i>Scope attached as Exhibit A</i>)
Prior Payment	:	-\$ 0.00
Attorney Fees	:	\$ 8,877.78
TOTAL	:	\$ 35,780.15

Because of the nature of the claims and the circumstances surrounding the losses in question, State Farm's actions constitute "knowing" violations of the DTPA and the Texas Insurance Code sufficient to allow the imposition of treble damages up to 3 times economic damages. Please let this letter serve as my client's demand for a total of \$35,780.15.

Sincerely,

THE LAW OFFICES OF R. KENT LIVESAY, P.C.

R. Kent Livesay

R. Kent Livesay

Attorney at Law

EXHIBIT

A

04042016

Insured Property	Gonzalez, Juan 1904 Taxco Dr Brownsville, TX 78521
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Estimator Randy Crow

Date Entered: 2/19/2015 3:34 PM

Price List: TXMC8X_FEB15
Restoration/Service/Remodel
Estimate: 2015-02-19-1534

Stone atc Stonegate Construction & Restoration, LLC

5303 N. McColl
McAllen, TX 78504
956-992-8747

2015-02-19-1534

SKETCHI**Main Level****Roof****DESCRIPTION****QTY****UNIT PRICE****TOTAL**

1. R&R Ridge cap - composition shingles	216.34 LF @	4.76 =	1,029.78
2. Remove Tear off, haul and dispose of comp. shingles - Laminated	20.51 SQ @	49.39 =	1,012.99
3. Laminated - comp. shingle rfg. - w/out felt	23.67 SQ @	161.72 =	3,827.91
4. Roofing felt	23.59 SQ @	23.40 =	552.01
5. Asphalt starter - universal starter course	230.21 LF @	1.26 =	290.06
6. R&R Drip edge	230.21 LF @	1.65 =	379.84
7. Seal & paint trim - two coats	230.21 LF @	0.93 =	214.10
8. R&R Valley metal	71.23 LF @	3.86 =	274.95
9. R&R Roof vent - turtle type - Metal	2.00 EA @	43.19 =	86.38
10. R&R Flashing - pipe jack	5.00 EA @	27.98 =	139.90
11. Prime & paint roof jack	5.00 EA @	23.78 =	118.90
12. Digital satellite system - Detach & reset	1.00 EA @	22.30 =	22.30
13. Digital satellite system - alignment and calibration only	1.00 EA @	66.89 =	66.89
14. General clean - up	8.00 HR @	26.66 =	213.28

Right Elevation**Windows****DESCRIPTION****QTY****UNIT PRICE****TOTAL**

15. Reglaze double-pane thermal window unit	1.00 EA @	226.23 =	226.23
16. R&R Window screen	1.00 EA @	26.26 =	26.26
17. General clean - up	1.00 HR @	26.66 =	26.66

Left Elevation**Windows****DESCRIPTION****QTY****UNIT PRICE****TOTAL**

18. Reglaze double-pane thermal window unit	1.00 EA @	226.23 =	226.23
19. R&R Window screen	1.00 EA @	26.26 =	26.26
20. General clean - up	1.00 HR @	26.66 =	26.66

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SKETCH2**Interior****Living Room**

Height: Tray

Missing Wall

14' X 8'

Opens into DINING_ROOM

DESCRIPTION	QTY	UNIT PRICE	TOTAL
Ceiling			
21. Chandelier - Detach & reset	1.00 EA @	84.04 =	84.04
22. Detach & Reset Heat/AC register	1.00 EA @	8.80 =	8.80
23. R&R Blown-in insulation	242.51 SF @	1.18 =	286.16
24. R&R Drywall - hung, taped, ready for texture	242.51 SF @	1.56 =	378.32
25. Apply anti-microbial agent	242.51 SF @	0.16 =	38.80
26. Seal the ceiling w/PVA primer	242.51 SF @	0.39 =	94.58
27. Texture drywall - machine	242.51 SF @	0.31 =	75.18
28. Paint the ceiling - two coats	242.51 SF @	0.65 =	157.63
Walls			
29. Detach & Reset Window drapery - hardware	1.00 EA @	22.40 =	22.40
30. Paint the walls	368.00 SF @	0.64 =	235.52
Clean/Mask/Move/Protect/Scaffolding			
31. Contents - move out then reset	1.00 EA @	53.46 =	53.46
32. Mask perimeter of ceiling	46.00 LF @	0.98 =	45.08
33. Mask the walls of walls	368.00 SF @	0.17 =	62.56
34. Mask perimeter of floor	46.00 LF @	0.98 =	45.08
35. Floor protection - cloth - skid resistant leak proof	222.83 SF @	0.72 =	160.44
36. Final cleaning - construction - Residential	222.83 SF @	0.17 =	37.88

Dining Room

Height: Tray

Missing Wall

14' X 8'

Opens into LIVING_ROOM

Missing Wall

10' 7" X 8'

Opens into KITCHEN

DESCRIPTION	QTY	UNIT PRICE	TOTAL
Ceiling			
37. Chandelier - Detach & reset	1.00 EA @	84.04 =	84.04
38. Detach & Reset Heat/AC register	1.00 EA @	8.80 =	8.80
39. R&R Blown-in insulation	167.67 SF @	1.18 =	197.85
40. R&R Drywall - hung, taped, ready for texture	167.67 SF @	1.56 =	261.57
41. Apply anti-microbial agent	167.67 SF @	0.16 =	26.83
42. Seal the ceiling w/PVA primer	167.67 SF @	0.39 =	65.39
43. Texture drywall - machine	167.67 SF @	0.31 =	51.98
44. Paint the ceiling - two coats	167.67 SF @	0.65 =	108.99
Walls			

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CONTINUED - Dining Room

DESCRIPTION	QTY	UNIT PRICE	TOTAL
45. Detach & Reset Window drapery - hardware	1.00 EA @	22.40 =	22.40
46. Paint the walls	199.33 SF @	0.64 =	127.57
Clean/Mask/Move/Protect/Scaffolding			
47. Contents - move out then reset	1.00 EA @	53.46 =	53.46
48. Mask perimeter of ceiling	24.92 LF @	0.98 =	24.42
49. Mask the walls of walls	199.33 SF @	0.17 =	33.89
50. Mask perimeter of floor	24.92 LF @	0.98 =	24.42
51. Floor protection - cloth - skid resistant, leak proof	152.28 SF @	0.72 =	109.64
52. Final cleaning - construction - Residential	152.28 SF @	0.17 =	25.89

Kitchen**Height: 8'****Missing Wall****10' 7" X 8'****Opens into DINING_ROOM**

DESCRIPTION	QTY	UNIT PRICE	TOTAL
Ceiling			
53. Detach & Reset Light fixture	1.00 EA @	32.32 =	32.32
54. Detach & Reset Heat/AC register	1.00 EA @	8.80 =	8.80
55. R&R Blown-in insulation	112.89 SF @	1.18 =	133.21
56. R&R Drywall - hung, taped, ready for texture	112.89 SF @	1.56 =	176.11
57. Apply anti-microbial agent	112.89 SF @	0.16 =	18.06
58. Seal the ceiling w/PVA primer	112.89 SF @	0.39 =	44.03
59. Texture drywall - machine	112.89 SF @	0.31 =	35.00
60. Paint the ceiling	112.89 SF @	0.64 =	72.25
Walls			
61. Detach & Reset Window drapery - hardware	1.00 EA @	22.40 =	22.40
62. Detach & Reset Custom cabinets - wall units	21.00 LF @	30.19 =	633.99
63. Stain & finish cabinetry - upper - inside and out	21.00 LF @	32.50 =	682.50
64. Stain & finish cabinetry - lower - inside and out	16.00 LF @	38.15 =	610.40
65. Seal & paint casing	15.83 LF @	1.37 =	21.69
66. Seal & paint baseboard	13.08 LF @	1.37 =	17.92
67. Paint the walls	256.67 SF @	0.64 =	164.27
Clean/Mask/Move/Protect/Scaffolding			
68. Detach & Reset Refrigerator	1.00 EA @	25.79 =	25.79
69. Detach & Reset Range - freestanding - gas	1.00 EA @	111.82 =	111.82

2015-02-19-1534

2/19/2015

Page: 4

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CONTINUED - Kitchen

DESCRIPTION	QTY	UNIT PRICE	TOTAL
70. Detach & Reset Range hood	1.00 EA @	55.47 =	55.47
71. Contents - move out then reset	1.00 EA @	53.46 =	53.46
72. Mask perimeter of ceiling	32.08 LF @	0.98 =	31.44
73. Mask the walls of walls	256.67 SF @	0.17 =	43.63
74. Mask perimeter of floor	32.08 LF @	0.98 =	31.44
75. Floor protection - cloth - skid resistant, leak proof	112.89 SF @	0.72 =	81.28
76. Final cleaning - construction - Residential	112.89 SF @	0.17 =	19.19

Bathroom

Height: 8'

DESCRIPTION	QTY	UNIT PRICE	TOTAL
Ceiling			
77. Exhaust fan - Detach & reset	1.00 EA @	116.71 =	116.71
78. Detach & Reset Heat/AC register	1.00 EA @	8.80 =	8.80
79. R&R Blown-in insulation	41.72 SF @	1.18 =	49.23
80. R&R Drywall - hung, taped, ready for texture	41.72 SF @	1.56 =	65.08
81. Apply anti-microbial agent	41.72 SF @	0.16 =	6.68
82. Seal the ceiling w/PVA primer	41.72 SF @	0.39 =	16.27
83. Texture drywall - machine	41.72 SF @	0.31 =	12.93
84. Paint the ceiling	41.72 SF @	0.64 =	26.70
Walls			
85. Detach & Reset Toilet	1.00 EA @	170.28 =	170.28
86. Detach & Reset Mirror	1.00 SF @	4.02 =	4.02
87. Detach & Reset Light bar	1.00 EA @	32.00 =	32.00
88. Detach & Reset Shower curtain rod	1.00 EA @	10.46 =	10.46
89. Seal & paint casing	15.83 LF @	1.37 =	21.69
90. Seal & paint baseboard	26.75 LF @	1.37 =	36.65
91. Paint the walls	214.02 SF @	0.64 =	136.97
Clean/Mask/Move/Protect/Scaffolding			
92. Contents - move out then reset	1.00 EA @	53.46 =	53.46
93. Mask perimeter of ceiling	26.75 LF @	0.98 =	26.22
94. Mask the walls of walls	214.02 SF @	0.17 =	36.38
95. Mask perimeter of floor	26.75 LF @	0.98 =	26.22
96. Floor protection - cloth - skid resistant, leak proof	41.72 SF @	0.72 =	30.04
97. Final cleaning - construction - Residential	41.72 SF @	0.17 =	7.09

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CONTINUED - Bathroom

DESCRIPTION	QTY	UNIT PRICE	TOTAL
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General Requirements**Contents**

DESCRIPTION	QTY	UNIT PRICE	TOTAL
98. Moving van (24' - 27') and equipment - per day	2.00 EA @	163.59 =	327.18
99. Inventory, Packing, Boxing, and Moving charge - per hour	30.00 HR @	26.13 =	783.90
100. Off-site storage & insur. - climate controlled - per month	500.00 SF @	0.89 =	445.00

Debris Removal

DESCRIPTION	QTY	UNIT PRICE	TOTAL
101. Dumpster load	2.00 EA @	589.34 =	1,178.68

On - Site Sanitation

DESCRIPTION	QTY	UNIT PRICE	TOTAL
102. Temporary toilet (per month)	1.00 MO @	132.01 =	132.01

Supervision

DESCRIPTION	QTY	UNIT PRICE	TOTAL
103. Residential Supervision / Project Management - per hour	40.00 HR @	50.30 =	2,012.00

Taxes, Insurance, and Permits

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DESCRIPTION	QTY	UNIT PRICE	TOTAL
104. Taxes, insurance, permits & fees	1.00 EA @	750.00 =	750.00

Labor Minimums Applied

DESCRIPTION	QTY	UNIT PRICE	TOTAL
105. Window labor minimum	1.00 EA @	16.93 =	16.93
106. Heat, vent, & air cond. labor minimum	1.00 EA @	132.44 =	132.44
107. Water extract/remediation labor minimum	1.00 EA @	13.69 =	13.69
108. Window treatment repair	1.00 EA @	34.99 =	34.99
109. Mirror/shower door labor minimum	1.00 EA @	98.21 =	98.21
110. Finish hardware labor minimum	1.00 EA @	91.77 =	91.77

Grand Total Areas:

1,038.02 SF Walls	564.79 SF Ceiling	1,602.81 SF Walls and Ceiling
529.72 SF Floor	58.86 SY Flooring	129.75 LF Floor Perimeter
0.00 SF Long Wall	0.00 SF Short Wall	129.75 LF Ceil. Perimeter
529.72 Floor Area	573.84 Total Area	1,038.02 Interior Wall Area
1,215.77 Exterior Wall Area	135.09 Exterior Perimeter of Walls	
151.79 Surface Area	1.52 Number of Squares	96.00 Total Perimeter Length
0.00 Total Ridge Length	34.87 Total Hip Length	

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Summary for Dwelling

Line Item Total	21,837.81
Material Sales Tax	414.35
Cleaning Mtl Tax	0.95
Subtotal	22,253.11
Overhead	2,225.42
Profit	2,225.42
Cleaning Sales Tax	198.42
Replacement Cost Value	\$26,902.37
Net Claim	\$26,902.37

 Randy Crow



Stonegate Construction & Restoration, LLC

5303 N McColl
McAllen, TX 78504
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- 1 1-1904 Taxco Dr
Date Taken 2/11/2015

Brownsville, TX 78521



- 2 2-Roof:
Date Taken: 2/11/2015

Roof:





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3 3-Roof

Date Taken: 2/11/2015

Roof.



4 4-Roof

Date Taken: 2/11/2015

Roof.



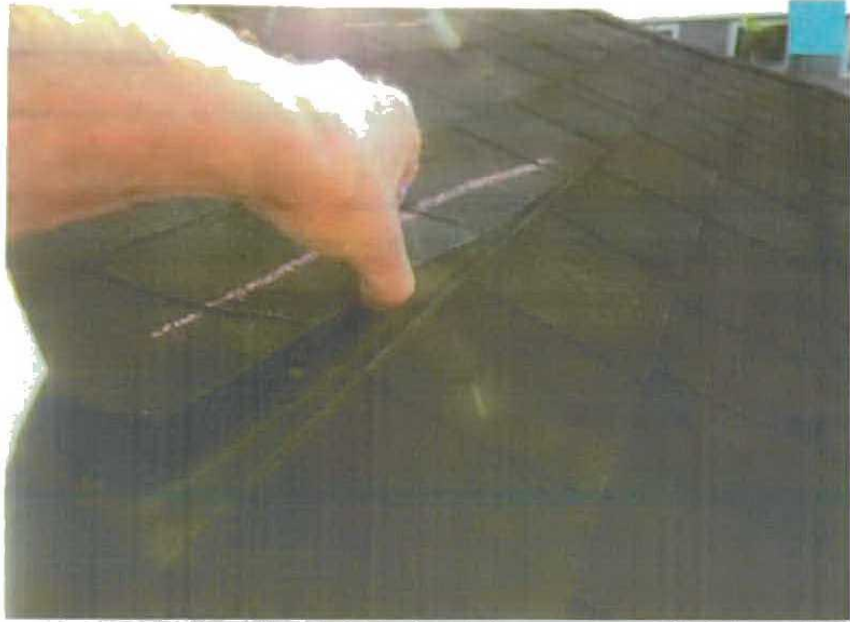


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- 5 5-Roof
Date Taken 2/11/2015

Roof.



- 6 6-Roof
Date Taken: 2/11/2015

Roof.





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7 7-Roof

Date Taken: 2/11/2015

Roof



8 8-Roof

Date Taken: 2/11/2015

Roof





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- 9 9-Roof
Date Taken 2/11/2015

Roof



- 10 10-Roof:
Date Taken: 2/11/2015

Roof





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- 11 11-Roof
Date Taken: 2/11/2015

Roof



- 12 12-Roof
Date Taken: 2/11/2015

Roof





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- 13 13-Roof
Date Taken: 2/11/2015

Roof.



- 14 14-Roof.
Date Taken: 2/11/2015

Roof.





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15 15-Roof

Date Taken: 2/11/2015

Roof.



16 16-Roof

Date Taken: 2/11/2015

Roof.





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- 17 17-Roof
Date Taken 2/11/2015

Roof



- 18 18-Roof
Date Taken 2/11/2015

Roof





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19 19-Roof

Date Taken: 2/11/2015

Roof.



20 20-Exterior

Date Taken: 2/11/2015

Right elevation window.





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- 21 21-Exterior
Date Taken: 2/11/2015

Right elevation window.



- 22 22-Exterior
Date Taken: 2/11/2015

Left elevation window.





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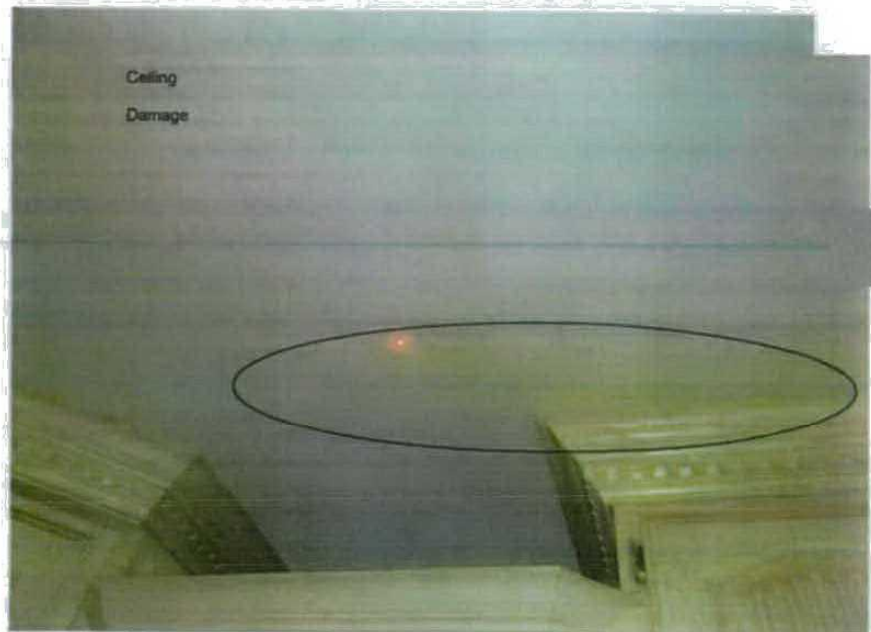
- 23 23-Exterior
Date Taken: 2/11/2015

Left elevation window.



- 24 24-Kitchen
Date Taken: 2/11/2015

Kitchen.





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- 25 25-Kitchen
Date Taken: 2/11/2015

Kitchen:



- 26 26-Bathroom
Date Taken: 2/11/2015

Bathroom:





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27 27-Bathroom
Date Taken: 2/11/2015

Bathroom.

